

MERZ
Appl. No. 10/574,830
July 20, 2009

AMENDMENTS TO THE DRAWINGS

In response to the Examiner's request, attached are replacement sheets for Figures 2-5.

No new matter has been added.

Attachment: Replacement Sheets

REMARKS/ARGUMENTS

Claims 1-9 and 11-12 are pending in the application. Favorable consideration is requested.

At the outset, applicant notes with appreciation the courtesies extended to the applicant during the telephone interview on July 15, 2009. This Amendment is in line with those phone discussions.

In response to the Examiner's request for replacement drawings, attached are replacement sheets that show clear black and white photographs. The photographs do not include any new matter. In fact, they are the same as the previously submitted photographs. Apparently, the USPTO scanning system or computer system is having difficulty handling the photographs. Applicant notes that the photographs are perfectly clear, and have been sent overseas without difficulty. The photographs are in compliance with the USPTO rules and do not require any Petition because they are not in color. As noted in 37 CFR 1.84, photographs are acceptable. This is especially the case here where the photographs show various aspects of the invention and the environment of the invention. As a result, applicant submits that the Figures should be acceptable.

The claims have been amended to place them in more conventional U.S. patent claim format, and the amendments are supported by the original claims and the drawings (in conjunction with the corresponding parts of the specification). No new matter has been added.

Without acquiescing in any position set forth in the Office Action, applicant submits that the claim amendments render moot the formalistic objections raised on pages 3-4 of the Office

Action. As those of skill in the art know from the disclosure and Figures, the weight is in the upper half of the rear leg (hind leg) gaiter. See, e.g., Figs. 2 and 4.

Claims 1-3 and 8 stand rejected as allegedly being anticipated by Petronio (U.S. Patent 5,127,213). Applicant respectfully traverses the rejection for at least the following reasons.

The applicant's claims are directed to a gaiter. In contrast, Petronio does not disclose any gaiter. As known to those of skill in the art, a gaiter is an element covering a part of a leg, not another part of the body. Petronio simply discloses a blanket, not a gaiter. Thus, the blanket disclosure in Petronio, which covers a back or torso, does not disclose the claimed gaiter. As a result, the claims are not anticipated by the Petronio disclosure.

Claims 4-7, 9, 11 and 12 stand rejected as allegedly being anticipated by Kaski (U.S. Patent 4,974,398). Applicant respectfully traverses this rejection for at least the following reasons.

In the applicant's claimed invention, the claimed weight is in the upper half of the device and it is disposed in such a way for location close to the hock, i.e., "the weight is completely disposed in an upper half portion of the gaiter and the weight is disposed for location close to a hock of the horse." In contrast, Kaski discloses a weight in the middle part of its device, not in the upper part of the device as claimed, and Kaski's weight is not disposed for location close to the hock. Thus, Kaski does not anticipate the claimed invention.

In view of the foregoing amendments and remarks, and the attached replacement sheets, applicant submits that this application is in condition for allowance. A notice to that effect is earnestly solicited.

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If the Examiner has any questions concerning this case, the undersigned may be contacted at 703-816-4009.

Respectfully submitted,

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